



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/767,819

01/22/2001

Robert M. Zeidman

9823

32605 7590 04/23/2007
MACPHERSON KWOK CHEN & HEID LLP
2033 GATEWAY PLACE
SUITE 400
SAN JOSE, CA 95110

EXAMINER

BELIVEAU, SCOTT E

ART UNIT

PAPER NUMBER

2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
--	-----------	---------------

3 MONTHS

04/23/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/767,819

Applicant(s)

ZEIDMAN, ROBERT M.

Examiner

Beliveau Scott

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 1/22/01.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 21 February 2007 has been entered.

Information Disclosure Statement

2. Upon review of the application file, it is unclear if the previous examiner considered the information disclosure statement (IDS) submitted on 22 January 2001. The examiner is considering the information disclosure statement.

Response to Arguments

3. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

With respect to the amendment adding the particular negative limitation of 'without viewer interaction', it is respectfully noted that the specification does not appear to provide any explicit basis for the exclusionary provision. The scope and nature of the limitation as to what is in fact is being precluded is unclear. For example, the instant application appears to require form some form of 'viewer interaction' in order to operate (ex. user watches TV,

Art Unit: 2623

contacts website, etc.). For the purpose of art evaluation, the examiner shall presume that the limitation of 'without viewer interaction' relates to process of sending stored information upstream automatically. The particular amended limitation is subsequently met whereby the set-top box [245] periodically and automatically distributes the log file as claimed (Col 3, Lines 56-66).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims set forth the limitation 'without viewer interaction'. Pursuant with MPEP 2173.05(i) the particular boundaries of the limitation are unclear given that there does not appear to be an explicit basis within the specification. For example, it is unclear that the limitation is intended to preclude particular or all 'viewer interactions' within the system (ex. viewer watching television, actively choosing to connect to the Internet, etc.) or is to be construed as simply requiring that the system operate autonomously in regards to distributing stored information. For the purpose of art evaluation, the examiner shall interpret the limitation narrowly to refer to information being sent to the remote server autonomously.

Claim Rejections - 35 USC § 103

Art Unit: 2623

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the 1997 Broadcast of "Schindler's List" on NBC in view of Matheny et al. (US Pat No 6,766,524).

In regard to claim 1, the 'You Should Know Better, Mr. Spielberg' article provides evidence that it is known in the art of television broadcasting to "allow content to be broadcast without commercial interruption" yet still be sponsored by companies. However, the evidence of the particular species of 'broadcast programming' is silent with respect further providing incentives to viewers to watch.

In an analogous art pertaining to the field of television, Methany et al. discloses a system and method to encourage viewers to pay attention to television programs. The step of "receiving a broadcast with embedded information about the broadcast, said embedded information being provided to allow constructing a viewing record of the broadcast" is met by Figures 2-3.

"Reward notice 260 and reward query 275 are conveyed in trigger messages, or "triggers," broadcast to receivers of broadcast video. Such triggers generally instruct receivers to take a specific action to synchronize the content of a Web page with a broadcast television program. Reward notices and reward queries may be transmitted in the VBI of a broadcast video signal. The text service channels of line 21 of the VBI provide a robust communication medium, albeit at relatively low bandwidth" (Col 4, Lines 28-36).

The claimed step of "extracting and displaying content from said broadcast" is met by Figure 2.

Art Unit: 2623

“Receiver 215 includes a television set 235 connected via a video line 240 to a set-top box 245 similar to set-top box 110 of FIG. 1. Television set 235 and set-top box 245 work together to display Web pages, broadcast television, or both. Web pages are typically downloaded over the Internet 230, but may also be received from video signal 210 or retrieved from a local memory, such as a disk drive 250 in set-top box 245. Set-top box 245 stores Web pages locally in each case” (Col 2, Lines 48-55).

“FIG. 2 illustrates a communication system 200 that enables television sponsors to reward viewers for paying attention to broadcast television commercials and other types of broadcast programs” (Col 2, Lines 39-42).

The claimed step of “extracting said embedded information from said broadcast” is met by Figure 2. As detailed in Col 4, Lines 28-36, the embedded information is extracted from the VBI. The claimed steps of “storing said embedded information” and “at a predetermined time and without viewer interaction, sending said stored embedded information and viewer information to a remote computer to allow said viewing record” are met by Figures 2 and 4.

“Returning to the example of FIG. 2, if a viewer answers question 269, then set-top box 245 notes the identity of the program in which the question appeared, the time the question was posed, a value expressing how much of the program was viewed, and the viewer's answer to the query. Set-top box 245 then stores this information in a local log file 271 on disk drive 250. In other embodiments, set-top box 245 collects different types of information to identify whether viewers respond to selected programs when prompted. The contents of log file 271 are eventually pushed to remote information store 220. In one embodiment, set-top box 245 periodically establishes network connection 225 to accomplish this push . . . In one embodiment, set-top box 245 automatically establishes connection 225 daily to retrieve updated programming information, and set-top box pushes the contents of log file 271 to information store 220 while connected” (Col 3, Lines 46-66).

The claimed step of “providing specific incentives to the view based on said embedded information and said viewer information sent” is met by Figure 2-4.

“The message that includes unique identifier 275 notifies information store 220 that the viewer associated with receiver 215 has answered a query, and may therefore be entitled to a reward. Information store 220 determines, based on the information identifying the program, whether the viewer provided the correct answer. If so, then information store 220 allocates the appropriate reward to the viewer” (Col 4, Lines 14-21).

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teachings of Methany et al. with other types of programming including “broadcasts without commercial interruption” for the purpose of providing a means to encourage viewers to pay attention to TV programs.

In regard to claim 2, the ‘You Should Know Better, Mr. Spielberg’ article provides evidence that it is known in the art of television broadcasting to “allow content to be broadcast without commercial interruption” yet still be sponsored by companies. However, the evidence of the particular species of ‘broadcast programming’ is silent with respect further providing incentives to viewers to watch.

In an analogous art pertaining to the field of television, Methany et al. discloses a system and method to encourage viewers to pay attention to television programs. The claimed step of “receiving a broadcast with information about the broadcast embedded into the broadcast at regular time periods, said information including timestamp each identifying the time slice during which the broadcast is received” is met by Figures 2-3.

“Reward notice 260 and reward query 275 are conveyed in trigger messages, or “triggers,” broadcast to receivers of broadcast video. Such triggers generally instruct receivers to take a specific action to synchronize the content of a Web page with a broadcast television program. Reward notices and reward queries may be transmitted in the VBI of a broadcast video signal. The text service channels of line 21 of the VBI provide a robust communication medium, albeit at relatively low bandwidth” (Col 4, Lines 28-36).

"[E]ach trigger includes a time stamp. Thus, the time attribute of the selected reward notice 260 can be used to determine the point at which the viewer tuned into the commercial" (Col 7, Lines 28-30).

The claimed step of "extracting and displaying content from said broadcast" is met by Figure 2.

"Receiver 215 includes a television set 235 connected via a video line 240 to a set-top box 245 similar to set-top box 110 of FIG. 1. Television set 235 and set-top box 245 work together to display Web pages, broadcast television, or both. Web pages are typically downloaded over the Internet 230, but may also be received from video signal 210 or retrieved from a local memory, such as a disk drive 250 in set-top box 245. Set-top box 245 stores Web pages locally in each case" (Col 2, Lines 48-55).

"FIG. 2 illustrates a communication system 200 that enables television sponsors to reward viewers for paying attention to broadcast television commercials and other types of broadcast programs" (Col 2, Lines 39-42).

The claimed step of "extracting said embedded information from said broadcast" is met by Figure 2. As detailed in Col 4, Lines 28-36, the embedded information is extracted from the VBI. The claimed step of "incrementing counters for counting time slices during which broadcasting is received" is met by Figure 2-4.

"[E]ach trigger includes a time stamp. Thus, the time attribute of the selected reward notice 260 can be used to determine the point at which the viewer tuned into the commercial" (Col 7, Lines 28-30).

"Returning to the example of FIG. 2, if a viewer answers question 269, then set-top box 245 notes the identity of the program in which the question appeared, the time the question was posed, a value expressing how much of the program was viewed, and the viewer's answer to the query" (Col 3, Lines 46-50).

The claimed steps of "storing said embedded information" and "sending said embedded information, said counter values and viewer information to a remote computer to allow a viewing time to be determined, said sending not requiring viewer interaction" are met by Figures 2 and 4.

Art Unit: 2623

“Returning to the example of FIG. 2, if a viewer answers question 269, then set-top box 245 notes the identity of the program in which the question appeared, the time the question was posed, a value expressing how much of the program was viewed, and the viewer's answer to the query. Set-top box 245 then stores this information in a local log file 271 on disk drive 250. In other embodiments, set-top box 245 collects different types of information to identify whether viewers respond to selected programs when prompted. The contents of log file 271 are eventually pushed to remote information store 220. In one embodiment, set-top box 245 periodically establishes network connection 225 to accomplish this push. . . In one embodiment, set-top box 245 automatically establishes connection 225 daily to retrieve updated programming information, and set-top box pushes the contents of log file 271 to information store 220 while connected” (Col 3, Lines 46-66).”

The claimed step of “providing specific incentives to the viewer based on said embedded information and said viewing time” is met by Figure 2-4.

“The message that includes unique identifier 275 notifies information store 220 that the viewer associated with receiver 215 has answered a query, and may therefore be entitled to a reward. Information store 220 determines, based on the information identifying the program, whether the viewer provided the correct answer. If so, then information store 220 allocates the appropriate reward to the viewer” (Col 4, Lines 14-21).

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teachings of Methany et al. with other types of programming including “broadcasts without commercial interruption” for the purpose of providing a means to encourage viewers to pay attention to TV programs.

In regard to claim 3, the ‘You Should Know Better, Mr. Spieldberg’ article provides evidence that it is known in the art of television broadcasting to “allow content to be broadcast without commercial interruption” yet still be sponsored by companies. However,

the evidence of the particular species of 'broadcast programming' is silent with respect further providing incentives to viewers to watch.

In an analogous art pertaining to the field of television, Methany et al. discloses a system and method to encourage viewers to pay attention to television programs. The claimed steps of "embedding information along with the broadcast content, said embedded information including information that allows a viewing time of said broadcast content to be determined" and "broadcasting said content with said embedded information to a remote viewer of the content . . . the embedded information enabling a remote computer to retain the viewing time and viewer information without requiring viewer interaction" are met by Figures 3 and 4. The remote computer is 'enabled to retain' by virtue of having received the information autonomously.

"Reward notice 260 and reward query 275 are conveyed in trigger messages, or "triggers," broadcast to receivers of broadcast video. Such triggers generally instruct receivers to take a specific action to synchronize the content of a Web page with a broadcast television program. Reward notices and reward queries may be transmitted in the VBI of a broadcast video signal. The text service channels of line 21 of the VBI provide a robust communication medium, albeit at relatively low bandwidth" (Col 4, Lines 28-36).

"Receiver 215 includes a television set 235 connected via a video line 240 to a set-top box 245 similar to set-top box 110 of FIG. 1. Television set 235 and set-top box 245 work together to display Web pages, broadcast television, or both. Web pages are typically downloaded over the Internet 230, but may also be received from video signal 210 or retrieved from a local memory, such as a disk drive 250 in set-top box 245. Set-top box 245 stores Web pages locally in each case" (Col 2, Lines 48-55).

"FIG. 2 illustrates a communication system 200 that enables television sponsors to reward viewers for paying attention to broadcast television commercials and other types of broadcast programs" (Col 2, Lines 39-42).

“Returning to the example of FIG. 2, if a viewer answers question 269, then set-top box 245 notes the identity of the program in which the question appeared, the time the question was posed, a value expressing how much of the program was viewed, and the viewer's answer to the query. Set-top box 245 then stores this information in a local log file 271 on disk drive 250. In other embodiments, set-top box 245 collects different types of information to identify whether viewers respond to selected programs when prompted. The contents of log file 271 are eventually pushed to remote information store 220. In one embodiment, set-top box 245 periodically establishes network connection 225 to accomplish this push. . . In one embodiment, set-top box 245 automatically establishes connection 225 daily to retrieve updated programming information, and set-top box pushes the contents of log file 271 to information store 220 while connected” (Col 3, Lines 46-66).”

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teachings of Methany et al. with other types of programming including “content without commercial interruption” for the purpose of providing a means to encourage viewers to pay attention to TV programs.

In regard to claim 4, the claimed step of “obtaining stored embedded information without requiring viewer interaction so as to determine said viewing time” is met by Figures 2-4.

“Returning to the example of FIG. 2, if a viewer answers question 269, then set-top box 245 notes the identity of the program in which the question appeared, the time the question was posed, a value expressing how much of the program was viewed, and the viewer's answer to the query. Set-top box 245 then stores this information in a local log file 271 on disk drive 250. In other embodiments, set-top box 245 collects different types of information to identify whether viewers respond to selected programs when prompted. The contents of log file 271 are eventually pushed to remote information store 220. In one embodiment, set-top box 245 periodically establishes network connection 225 to accomplish this push . . . In one embodiment, set-top box 245 automatically establishes connection 225 daily to retrieve updated programming information, and set-top box pushes the contents of log file 271 to information store 220 while connected” (Col 3, Lines 46-66).

The claimed step of “sending specific incentives to said viewer based on said viewing time” is met by Figures 2-4.

“The message that includes unique identifier 275 notifies information store 220 that the viewer associated with receiver 215 has answered a query, and may therefore be entitled to a reward. Information store 220 determines, based on the information identifying the program, whether the viewer provided the correct answer. If so, then information store 220 allocates the appropriate reward to the viewer” (Col 4, Lines 14-21).

Claims 5-6 and 7-8 are met by that discussed above for claims 2-4.

In regard to claims 9-10, the recited limitations are met by that discussed above for claims 2-4 except the reference fails to explicitly disclose creating a Web page containing links to all sponsor incentive websites and to specific incentives and sending said Web page back to said viewer; however, the applicant’s admission of fact provides evidence that it notoriously well know in the art to use a web page so as to facilitate the organization of URLs. Consequently, it would have been obvious to one of ordinary skill in the art to implement Matheny with the use a web page so as to facilitate the organization of URLs.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- The Aras et al. (US Pat No. 5,872,588) reference discloses a method and apparatus for monitoring audio-visual materials presented to a subscriber.
- The Goldman et al. (US Pat No. 7,051,351) reference discloses a system and method of inserting advertisements into an information retrieval system display.

Art Unit: 2623

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beliveau Scott whose telephone number is 571-272-7343.

The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Beliveau Scott
Primary Examiner
Art Unit 2623

SEB
April 17, 2007